

REMARKS

By the present Amendment, claims 1, 3, and 4 have been amended. Claim 7 has been cancelled without any prejudice or disclaimer to the subject matter recited therein.

In the Office Action of June 28, 2007, claim 7 was rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Claims 1-7 were rejected under 35 USC § 102(b) as being anticipated by U.S. Patent No. 5,868,675 issued to Henrion et. Al ("Henrion"). The cancellation of claim 7 has rendered part of these grounds of rejection moot. Regarding the remaining claims, these rejections are respectfully traversed.

In rejecting claims 1-7, the Office Action alleges that Henrion discloses a position measuring system that includes a position indicating means that is able to indicate a position and direction of a tool, and a three-dimensional positioning means that is able to measure a position and direction of a surgical field. The Office Action further indicates that the position indicating means and the three-dimensional position measuring means are fixed and that the system is held on a stand, while the position measuring device is held by an arm. In addition, the Office Action indicates that the system includes a means for calculating the setting position and direction of the laser emitting position from the angle of the laser beam. Applicants respectfully disagree.

As amended, independent claim 1 defines a position measuring apparatus for measuring the position of a tool and indicating the position where the tool is working. The position measuring apparatus comprises:

a position indicating means for indicating a position and a direction of a tool; and

a three-dimensional position measuring means for measuring a position and a direction of an surgical field and also the position and the direction of said tool, wherein said position indicating means and said three-dimensional position measuring means are fixed on a common base, so that relative positional relationship therebetween is constant.

According to independent claim 1, a position indicating means is provided for indicating the positions and direction of a tool. A three-dimensional position measuring means is used to measure a position and direction of a surgical field, as well as the position and direction of the tool. Further, the position indicating means and the three-dimensional position measuring means are fixed on a common base so that the relative positional relationship between them remains constant. According to such an arrangement, it is possible for the position measuring apparatus to indicate and/or provide an appropriate position of the tool without the need for recalibration each time the position changes.

The Office Action alleges that Henrion discloses all the features of the claimed invention. This does not appear to be the case. According to Henrion, a pair of video cameras (31, 32) is provided for use as a 3D position measuring means. The system includes a sighting member (OV) that can be associated with a helium-neon laser emission system (EL). As illustrated in Fig. 1, however, the video cameras are mounted on the table (TO), while the sighting member and laser are provided on a means of intervention (5). The means of intervention moves the sighting tool together with the laser along the periphery of the operation table. When the means of intervention moves the sighting tool and laser, however, the video cameras remain stationary since they are mounted on the table. Consequently, the system must be recalibrated for the change in position. Henrion fails to provide any disclosure or

suggestion for combining the position indicating means and position measuring means on a common base, as set forth in independent claim 1.

It is therefore respectfully submitted that independent claim 1 is allowable over the art of record.

Claims 2-6 depend from independent claim, and are therefore believed allowable for at least the reasons set forth above with respect to independent claim 1. In addition, these claims each introduce novel elements that independently render them patentable over the art of record.

For the reasons stated above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a Notice of Allowance is believed in order, and courteously solicited.

If the Examiner believes that there are any matters which can be resolved by way of either a personal or telephone interview, the Examiner is invited to contact Applicants' undersigned attorney at the number indicated below.

AUTHORIZATION

Applicants request any shortage or excess in fees in connection with the filing of this paper, including extension of time fees, and for which no other form of payment is offered, be charged or credited to Deposit Account No. 01-2135 (Case: 520.43276X00).

Respectfully submitted,
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